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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,924	08/29/2002	Anatoly Yakovlevich Stolyarevsky	22941-1	2347

21710 7590 05/09/2003

BROWN, RUDNICK, BERLACK & ISRAELS, LLP.
BOX 1P, 18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER

LAWRENCE JR, FRANK M

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,924

Applicant(s)

STOLYAREVSKY, ANATOLY
YAKOVLEVICH

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: .

DETAILED ACTION

Priority

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). *The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.*

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Russia on February 29, 2000. It is noted, however, that applicant has not filed a certified copy of the Russian application as required by 35 U.S.C. 119(b).

3. Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Russia on February 29, 200. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

Specification

4. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.
5. Claims 5 and 7 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.
6. The disclosure is objected to because of the following informalities: A brief description of figures 3a and 3b is required instead of the single description of nonexistent figure 3. Also, the specification should be amended to eliminate references to figure 3 by changing them to figure 3a or 3b.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 6, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 6, 8 and 9 are each replete with indefinite terms because they are a direct translation of the foreign application. Each claim should be rewritten to positively recite structural elements or method steps so that the scope of the claim is clear. An example of an indefinite phrase is "Gas storage capsule, containing the gastight case inside which particles of a sorbent for sorption of the gas are placed" because it is unclear whether

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"case" refers to "capsule" and whether the gas refers to a propellant gas or a gas to be stored for dispensing.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hultquist et al. (6,132,492).

11. Hultquist et al. ('492) teach a sorbent-based gas storage and dispensing container, comprising a cylindrical housing (102) filled with a solid phase sorbent (108) for storing a gas to be dispensed, an upper valve for selectively dispensing the gas, and a capsule (110) that is separated from the storage sorbent by a capsule wall (136) and is filled with a second solid-phase sorbent material that adsorbs impurities within the housing (see col. 14, line 58 to col. 15, line 60). The method of filling the housing with the sorbent and gases are an inherent feature of the finished apparatus.

12. Claims 1, 3, 4 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander (3,964,649).

13. Alexander ('649) teaches a pressurized dispensing container comprising a cylindrical housing formed from two parts (10, 12) with a valve member (11) disposed adjacent to the

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joining of the housing parts, and a sealed sachet (17) disposed within the housing and containing a solid-phase adsorbent material for storing a liquefied gas propellant, wherein the sachet is separated from the fluid to be dispensed (see col. 4, lines 7-44). The method of filling the housing with the sorbent and gases are an inherent feature of the finished apparatus.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Hultquist et al. ('492) or Alexander ('649) in view of Miles (3,122,284).

16. Either one of Hultquist et al. ('492) or Alexander ('649) discloses all of the limitations of the claim except that the release means includes an elastic element. Miles ('284) discloses a pressurized dispenser including a spring-biased release valve (21) for dispensing fluid from a container (col. 3, lines 11-27). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the dispensing valves of either one of Hultquist et al. ('492) or Alexander ('649) by including a spring in order to provide a valve that returns to a closed condition following dispensing so that unwanted escaping of fluid is prevented.

17. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Hultquist et al. ('492) or Alexander ('649) in view of Zheng et al. (5,409,526).

18. Either one of Hultquist et al. ('492) or Alexander ('649) discloses all of the limitations of the claim except that the release channel is provided with a molecular sieve passing only

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molecules of sorpting gas. Zheng et al. ('526) disclose a pressurized dispensing vessel having a release channel that is provided with a molecular sieve (111) for adsorbing impurities while passing the dispensed fluid. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the release channel of either one of Hultquist et al. ('492) or Alexander ('649) by using a molecular sieve in order to provide an integral means for dispensing a high-purity gas without the need for external purifiers that require servicing (col. 1, lines 37-68; col. 3, lines 43-59).

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references listed on the attached PTO-892 form disclose fluid dispensing devices that contain a sorbent material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 703-305-0585. The examiner can normally be reached on Mon-Thurs 7:30-5:00; alternate Fridays 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Frank Lawrence

Frank Lawrence 5-7-03

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Patent Examiner

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May 7, 2003